IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.04.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.7916 of 2007
& M.P.No.2 of 2007

M/s Hotel Mullai Pvt. Ltd.,
rep. by its Director Praveen Jain,
3H, Century Plaza,
560, Anna Salai, Teynampet,
Chennai-600 018. .. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA), Thalamuthu Natarajan
Building, No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

2.The Secretary, Department of
Urban Development,
Fort St. George,
Chennai-600 009.

3.The Branch Manager,
Karur Vysya Bank Ltd.,
No.62, Tyagaraya Road,
Pondy Bazaar, T.Nagar,
Chennai-600 017. .. Respondents

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Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records in No.F.5/15758/2006 dated 23.02.2007 on the file of the first respondent and quash the same and consequently forbear respondents 1 and 2 from in any manner proceeding against the petitioner company with respect of the construction in their property situate at Old door No.532, New Door No.1058, P.H.Road, Vepery, Chennai-600 007, other than by following due process of law.

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For Petitioner : M/s Satish Parasaran
For 1st Respondent : Mr.J.Ravindran

ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

By consent of the contesting parties, the writ petition itself is taken up for disposal.

2. Aggrieved by the letter of the Member-Secretary dated 23.02.2007, forfeiting the Bank Guarantee of Rs.19,60,000/-, the petitioner has filed the above writ petition to quash the same and consequently forbear respondents 1 and 2 from in any manner proceeding against the petitioner company with respect to the construction made in their property situate at Old door No.532, New Door No.1058, P.H.Road, Vepery, Chennai-600 007.

3. Heard the learned counsel for the petitioner as well as the learned counsel appearing for the CMDA.

4. It is seen that by letter dated 04.12.2006, the Member Secretary, CMDA, issued a show cause notice pointing out certain violations/deviations/deficiencies in the construction put up in Old door No.532, New Door No.1058, P.H.Road, Vepery, Chennai-600 007.

5. According to the learned counsel for the petitioner, on receipt of the above mentioned show cause notice, the petitioner has submitted a detailed reply on 05.02.2007. The copy of the reply addressed to the Member Secretary, CMDA and the copy of the acknowledgement card are available at pages 8 to 11 of the typed set of papers filed along with the writ petition. However, according to the learned counsel for the petitioner, while passing an order on 23.02.2007, the Member Secretary has not considered the reply sent by the petitioner on 05.02.2007.

6. In the light of the said contention, we have verified the impugned letter, which is available at page 12 of the typed set of papers. As rightly pointed out by the learned counsel for the petitioner, though the first respondent- the Member Secretary, CMDA, has referred to the deviations mentioned in the show cause notice dated 03.01.2007, there was no reference to the information/details furnished in the reply dated 05.02.2007. Without going into the merits of the claim of both parties, we quash the letter dated 23.02.2007 of the first respondent-Member Secretary, CMDA. The first respondent is directed to consider the reply/explanation of the petitioner dated 05.02.2007 and pass fresh orders, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner.

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7. The writ petition is allowed on the above terms. No costs. Consequently, M.P.No.2 of 2007 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

1.The Member Secretary,
Chennai Metropolitan Development
Authority, No.8, Gandhi Irwin road,
Egmore, Chennai-600 008.

2.The Secretary, Department of
Urban Development,
Fort St. George,
Chennai-600 009.

+ 1 CC To M/s.Satish Parasaran, Advocate SR NO.22071

W.P.No.7916 of 2007

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